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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/031,138	HIROSHI, MIYAWAKI
Office Action Summary	Examiner	Art Unit	
	BRIAN FERTIG	3694	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 August 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-26</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-26</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

This action is in response to Applicant's filing of 8/28/2008. Claims 1-26 are pending

and examined below. Claims 23-26 are new.

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

2.   Claims 23, 15-16, and 21-22 are rejected under 35 U.S.C. 112, second

paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention.

<u>With respect to claim 23</u>

This claim recites, "wherein an Internet access service providing method, an

advertisement distribution method, and the charging method associated with Internet

access are changed according to the state of Internet usage by the customer and the

result of the selection by the customer of the desired charging method information in the

charging table." It is unclear as to whether the claim intends to recite a system that

simultaneously encompasses all the embodiments described in Applicant's Specification

(i.e. user selected service providing method, advertising distribution method, and

charging method AND an automatic selection of service provider method, advertising

distribution method, and charging method based on the state of internet usage) or some

boarder combination of these (i.e. user selected charging method and automatic

selection of advertising method based on the state of internet usage). For the purposes

of Examination below, Examiner assumes the former interpretation simultaneously

requiring all of the recited embodiments based on the exclusive recitation of 'and' within

the clause.

<u>With respect to claims 15-16 and 21-22</u>

These claims are rejected for incorporating the subject matter rejected above.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

4.   Claims 24 and 25 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter. These claims are directed to a

process (method). The Court of Appeals for the Federal Circuit in *In re Bilski*, Appeal

No. 2007-1130, has affirmed that a statutory process must (1) be tied to another

statutory class (such as a particular apparatus) or (2) transform underlying subject

matter (such as an article or materials) to a different state or thing (i.e. the machine-or-

transformation test). To qualify as a statutory process, the claim should positively recite

the other statutory class (the thing or product) to which it is tied, for example, by

identifying the apparatus that accomplishes the non-insignificant extra solution method

steps, or positively recite the subject matter that is being transformed, for example, by

identifying the material that is being changed to a different state.

Applicant is also directed to MPEP § 2173.05p, providing guidance with respect

to reciting a product and process in the same claim and MPEP § 2111.02 [R3] providing

guidance with respect to the effect of limitations within the preamble of a claim.

Examiner respectfully suggests positively reciting, for example, of a fee

calculation step, similar to the one recommended in claim 24 below, as affirmatively

performed by a particular computing device.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

6.   Claim 24 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent

6,240,091 to Ginzboorg (Ginzboorg)

<u>With respect to claim 24</u>

Ginzboorg teaches:

A method of providing a network access to a user of an information terminal in a

system including a terminal server, a charging server, and a customer database,

said method comprising the steps of:

responsive to receiving a network access request from said user by
said terminal server, conditionally, upon successfully authenticating said
user, granting said connection request (see col 9, lines 4-62, note that the
customer is conditionally granted network access based on a check of the
customer's identity);

charging said user by said charging server based upon a charging
information in said customer database (see col 12, lines 16-29);

presenting a user with a charging method information (see col 7,
lines 20-50 and fig 4);

responsive to accepting said user's selection, transmit said
selection to at least one of: said customer database, said charging server
(see col 8, lines 5-20, note that the service request message includes the
service type selection and that the service request message is sent to the
access server which, in turn sends the serviceID to the charging server,
which, ultimately sends the information to the billing server, see col 12,
lines 16-29).

Ginzboorg does not explicitly teach:

including at least one information item selected from the group consisting
of: a size of the advertisement displayed on the information terminal, a
number of advertisements displayed on the information terminal,
electronic commerce deal amount, electronic commerce deal frequency,

and communication traffic state information concerning a communication

traffic state in the public network

However, Examiner notes that this limitation is directed entirely to non-functional

descriptive material having no claimed functional relationship to Applicant's claimed

invention. It has been considered, but not given patentable weight for distinguishing

Applicant's claimed invention over the prior art since non-functional descriptive material

fails to produce any functional change to the performance or structure of the claimed

invention.

Examiner respectfully suggests an affirmative limitation directed to utilizing or

basing the claimed fee calculation on said selected charging information. Such a

limitation established a functional relationship between the claimed elements of the

group and the claimed invention, allowing Examiner to give it patentable distinguishing

weight.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

8.   Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent 6,240,091 to Ginzboorg (Ginzboorg).

With respect to claim 1

Ginzboorg teaches:

An Internet charging system in a system having an information terminal and a

terminal server that provides Internet access service employing a public network

to the information terminal, comprising:

on the terminal server side (i.e. on system components that are not the

information terminal),

a charging server for sequentially calculating an Internet

usage fee which occurs according to Internet usage by an Internet

user through the information terminal (i.e. charging system in

combination with billing system, see col 5, line 47-col 6, line 10,

note that the charging server collects the charging records which

are generated at specific intervals, suggesting that billing is

accomplished based on a sequence of charging records. Note

further that the charging records are generated to reflect the user's

Internet usage);

a charging database having a charging table required for

calculating the Internet usage fee (i.e. service list, including price

list, see col 7, lines 35-50, note that a price list is required to

calculate the usage fee since it defines the rate at which the fee will

be charged in combination with charging records, see col 5, line 47-

col 6, line 10, col 14, line 36-col 15, line 36 and Fig 8 which

determine the amount of use the user has accrued); and

a customer database having a customer table which includes information on a customer as the Internet user through the information terminal (i.e. collected charging records, see col 5, line 47-col 6, line 10, col 14, line 36-col 15, line 36 and Fig 8, note that charging records contain fields for Identifiers which contains information about the customer. Since this information is in the context of a charging record that documents internet usage, this information is also information on the customer as an internet user. Alternatively, subscriber database, see col 9, lines 1-3),

wherein the charging table which includes information on an Internet access method (see col 7, lines 11-50, note that the services/price list contains information on the type of connection that the user may select. This is an internet access method in so far as it allows the consumer to select which type of connection will be used to provide the terminal with internet access), a method for displaying information for charging (i.e. a transmittable services/price list, see col 7, lines 39-50, note that the list is transmitted from the terminal server side), and a charging method associated with Internet access is periodically transmitted to the information terminal (i.e. a price associated with the service/connection type, note that the list is transmitted to the terminal immediately after the smart card is inserted),

wherein the information terminal is adapted to allow the
customer to select a desired charging method information from the
information in the transmitted charging table (see col 7, lines 11-50
and fig 4, note that the terminal displays a selection window from
which the user can select a service and associated price that was
updated from the terminal server side).

Ginzboorg does not explicitly teach databases and tables, however, they are suggested
by the fields and relationships that must be maintained between the data elements. It
would have been obvious to one having ordinary skill in the art at the time of applicant's
invention to have provided Ginzboorg with databases and tables since such a data
structure accommodates the charging records which contain fields of information whose
inter-relationship must be maintained in order for the data to have meaning and also
accommodates relating each service in the services list to a charging rate in order to
accurately charge a user based on the connection type selected for internet access.

Ginzboorg also does not explicitly teach:

said charging method information including at least one information item
selected from the group consisting of: a size of the advertisement displayed on
the information terminal, a number of advertisements displayed on the
information terminal, electronic commerce deal amount, electronic commerce
deal frequency, and communication traffic state information concerning a
communication traffic state in the public network.

However, Examiner notes that this limitation is directed entirely to non-functional

descriptive material having no claimed functional relationship to Applicant's claimed

invention. It has been considered, but not given patentable weight for distinguishing

Applicant's claimed invention over the prior art since non-functional descriptive material

fails to produce any functional change to the performance or structure of the claimed

invention.

Examiner respectfully suggests an affirmative limitation directed to utilizing or

basing the claimed fee calculation on said selected charging information. Such a

limitation established a functional relationship between the claimed elements of the

group and the claimed invention, allowing Examiner to give it patentable distinguishing

weight.

9.   Claims 2-4, 7-10, 13-14 and 17-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Ginzboorg in view of US Patent 5,913,040 to Rakavy (Rakavy)

With respect to claim 2

Ginzboorg teaches:

An Internet charging system in a system having an information terminal and a

terminal server that provides Internet access service employing a public network

to the information terminal, comprising:

on the terminal server side (i.e. on system components that are not the

information terminal),

a charging server for sequentially calculating an Internet usage fee which occurs according to Internet usage by an Internet user through the information terminal (i.e. charging system in combination with billing system, see col 5, line 47-col 6, line 10, note that the charging server collects the charging records which are generated at specific intervals, suggesting that billing is accomplished based on a sequence of charging records. Note further that the charging records are generated to reflect the user's Internet usage);

a charging database having a charging table required for calculating the Internet usage fee (i.e. service list, including price list, see col 7, lines 35-50, note that a price list is required to calculate the usage fee since it defines the rate at which the fee will be charged in combination with charging records, see col 5, line 47-col 6, line 10, col 14, line 36-col 15, line 36 and Fig 8, which determine the amount of use the user has accrued);

a customer database having a customer table which includes information on a customer as the Internet user through the information terminal (i.e. collected charging records, see col 5, line 47-col 6, line 10, col 14, line 36-col 15, line 36 and Fig 8, note that charging records contain fields for Identifiers which contains information about the customer. Since this information is in the context of a charging record that documents

internet usage, this information is also information on the customer as an internet user. Alternatively, subscriber database, see col 9, lines 1-3);

wherein, the charging table which includes information on an Internet access method (see col 7, lines 11-50, note that the services/price list contains information on the type of connection that the user may select. This is an internet access method in so far as it allows the consumer to select which type of connection will be used to provide the terminal with internet access), a method for displaying information for the charging (i.e. a transmittable services/price list, see col 7, lines 39-50, note that the list is transmitted from the terminal server side), and a charging method associated with Internet access is periodically transmitted to the information terminal (i.e. a price associated with the service/connection type, see col 7, lines 39-50, note that the list is transmitted to the terminal immediately after the smart card is inserted),

a usage state monitor server for monitoring a state of Internet usage by the customer (i.e. router, see col 10, line 31-col 11, line 5, note that the router monitors the state of the internet usage by the customer in its application of the access lists controlled by the access server),

a data traffic monitor server for monitoring data traffic of the Internet (i.e. router, see col 10, line 31-col 11, line 5, note that the router monitors the data traffic related to the internet usage by the customer in its application of the access lists controlled by the access server)

wherein, the customer selects desired information from the
information in the transmitted charging table (see col 7, lines 11-50 and fig
4, note that the terminal displays a selection window from which the user
can select a service and associated price that was updated from the
terminal server side), and on the terminal server side, an Internet access
service providing method (i.e. opening the internet connection by
controlling the router/concentrator, see col 6, lines 10-16), and the
charging method associated with Internet access are changed according
to the state of Internet usage by the customer and the result of the
selection by the customer of the desired charging method information in
the charging table (see col 11, lines 15-22 and col 12, lines 1-29, note that
users are charged based on charging records which correspond to the
state of internet usage of the customer. Note further that the rate
customers are charged are based upon the services/connection the user
selects.).

Ginzboorg does not explicitly teach:

an advertisement content server for retaining contents of the
advertisement;

an advertisement data controller for controlling a size and a display
time of an advertisement which is sent to the terminal server;

on the terminal server side, an advertisement distribution method

Rakavy teaches:

an advertisement content server for retaining contents of the
advertisement (i.e. Advertising system server, see col 5, lines 32-35);

an advertisement data controller for controlling a size and a display
time of an advertisement which is sent to the terminal server (see col 7,
lines 13-30, note that the Server database contains Advertisement
Information Records which contain client requirements for displaying the
advertisements and related size and col 5, lines 33-52 teaching that the
Advertising server selects which advertisement to send. The combination
of these teachings suggest that the Advertising server is capable of
controlling the size and display time of the advertisement. Note further
that the advertisement has been sent to the terminal server since it has
been stored on the Advertising system server, which is distinct from the
information terminal);

on the terminal server side, an advertisement distribution method
(i.e. Advertisement System Server transfers advertisements to the local
computer, see col 5, lines 31-35)

It would have been obvious to one having ordinary skill at the time of Applicant's
invention to have provided Ginzboorg with the advertising distribution features of
Rakavy in order to display advertisements on a local computer from a remote network in
the context of a commercial, on-line service as taught explicitly by Rakavy (see col 1,
lines 15-18)

Ginzboorg in view of Rakavy do not explicitly teach:

> said charging method information including at least one information item selected
>
> from the group consisting of: a size of the advertisement displayed on the
>
> information terminal, a number of advertisements displayed on the information
>
> terminal, electronic commerce deal amount, electronic commerce deal
>
> frequency, and communication traffic state information concerning a
>
> communication traffic state in the public network.

However, as above, Examiner notes that this limitation is directed entirely to non-functional descriptive material having no claimed functional relationship to Applicant's claimed invention. It has been considered, but not given patentable weight for distinguishing Applicant's claimed invention over the prior art for the reasons discussed above.

> Examiner respectfully suggests that the additional limitation discussed above is

likely to be applicable for claim 2 as well.

With respect to claims 3 and 13

Ginzboorg in view of Rakavy teaches:

> comprising:
>
> in the information terminal,
>
>> an access program for accessing the Internet (i.e. WWW browser, see
>
> Ginzboorg, col 11, line 25-26);

a usage state monitor program for monitoring the state of Internet usage

by the customer (i.e. Polite Agent, see col 7, lines 58-61);

an information terminal charging database having an information terminal

charging table which includes information required for calculating the Internet

usage fee (i.e. downloaded services/price list, see Ginzboorg, col 7, lines 35-50);

and

an access setting database having an access table which includes

information on plural providers such as phone numbers, ID numbers, passwords,

wherein the information terminal is configured to automatically change a provider

(see Rakavy, col 5, lines 54-65, note that multiple advertisement servers are

contemplated and the Local Computer is sent the addresses of the appropriate

servers to contact. Note that the changing between advertisement servers is

done without user intervention, see also Ginzboorg, col 6, lines 61-67 ad Fig 3c

and 3d).

(See rationale supporting obviousness and motivation to combine of claim 2 above)

With respect to claims 4 and 14

Ginzboorg in view of Rakavy teaches:

wherein the charging table has line usage fee information concerning a usage

fee of the public network (i.e. latest prices, see Ginzboorg, col 7, line 45).

(See rationale supporting obviousness and motivation to combine of claim 2 above)

With respect to claims 7 and 17

Ginzboorg in view of Rakavy teaches:

wherein the charging table has advertisement display time information

concerning a display time of the advertisement displayed on the information

terminal (see Rakavy col 7, lines 43-61, note that the Feedback manager sends

back user statistics which fairly suggests advertisement display time).

(see rationale supporting obviousness and motivation to combine of claims 2, 6, and 16

above)

<u>With respect to claim 8 and 18</u>

Ginzboorg in view of Rakavy teaches:

wherein the charging table has usage time-zone information concerning a time

zone in which the client uses the Internet (see col 5, line 47-col 6, line 10, col 14,

line 36-col 15, line 36 and Fig 8, note the time stamp information, in combination

with col 13, lines 45-54, teaching the problems related to time based charging.

Note that the combination of these teaching fairly suggests that accuracy and

synchronization required between use and charging elements of the system, thus

including time zone information as a means to insure synchronization would have

been obvious).

(see rationale supporting obviousness and motivation to combine of claims 2, 6, and 16

above)

<u>With respect to claims 9 and 19</u>

Ginzboorg in view of Rakavy teaches:

wherein the charging table has information on accumulated access time that is

an accumulation of time for which the customer uses the Internet (see Ginzboorg

col 11, lines 15-22 and col 12, lines 1-29, note that users are charged based on

charging records which correspond to the state of internet usage of the customer.

Note further that the rate customers are charged are based upon the

services/connection the user selects.).

(see rational supporting obviousness and motivation to combine of claim 2 above)

With respect to claim 10 and 20

Ginzboorg in view of Rakavy teaches:

wherein the charging table has data packet amount information concerning an

amount of data packets utilized in the Internet (see Ginzboorg col 5, line 47-col 6,

line 10, col 14, line 36-col 15, line 36 and Fig 8, note that the charging records

contain a field for LENGTH and TRAFFIC DATA).

(see rational supporting obviousness and motivation to combine of claim 2 above)

10.   Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Ginzboorg.

With respect to claim 25

 Ginzboorg teaches:

A method of providing a network access to a user of an information terminal in a

system including a terminal server, a charging server, a customer database, and

an access setting database including information on plural providers, said

method comprising the steps of:

responsive to receiving a network access request from said user by

said terminal server, conditionally, upon successfully authenticating said

user, granting said connection request (see col 9, lines 4-62, note that the

customer is conditionally granted network access based on a check of the

customer's identity);

charging said user by said charging server based upon a charging

information in said customer database (see col 12, lines 16-29);

presenting a user with a charging method information (see col 7,

lines 20-50 and fig 4);

Ginzboorg does not explicitly teach:

responsive to accepting said user's selection, automatically select a

provider from said access setting database (see col 6, lines 61-67, col 7,

lines 20-50, and fig 3c-d, note that the selection may be among desired

operators, see also col 10, lines 30.

However, Ginzboorg teaches a system including multiple access service providers (see

col 6, lines 61-67 and fig 3c-3d). Ginzboorg also teaches the selection of a desired

operator (see col 7, lines 29-34) and control of the router R1 which governs the routing

of traffic to the various access service providers (see col 10, lines 31-42, in combination

with fig 3c-d). This combined teaching fairly suggests automatically selecting a provider

from said access setting data base responsive to accepting said user's selection in so

far as in order to configure router R1 to correctly route traffic to the chosen access

service provider, the access list of the router must be properly configured. Doing so

requires a resolution between the users selection and the configuration information

required by the router. Such a resolution fairly suggests an automatic selection from an

access setting database.

11.   Claims 26, 11, and 12 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Ginzboorg in view of US Patent 6,128,490 to Shaheen (Shaheen).

With respect to claim 26

 Ginzboorg teaches:

>   An Internet charging system in a system having an information terminal and a

>   terminal server that provides Internet access service employing a public network

>   to the information terminal, comprising on the terminal server side:

>>   a charging server for sequentially calculating an Internet usage fee

>>   which occurs according to Internet usage by an Internet user through the

>>   information terminal (i.e. charging server, see col 14, lines 8-35);

>>   a charging database having a charging table required for

>>   calculating the Internet usage fee (i.e. service list, including price list, see

>>   col 7, lines 35-50, note that the price list is required to calculate the usage

>>   fee since it defines the rate at which the fee will be charges in combination

>>   with charging records, see col 5, line 47-col 6, line 10, col 14, line 36-col

>>   15, line 36 and fig 8);

>>   a customer database having a customer table which includes

>>   information on a customer as the Internet user through the information

>>   terminal (i.e. collecting charging records, see col 5, line 47-col 6, line 10,

col 14, line 36-col 15, line 36 and fig 8, note that the charging records

contain fields for identifiers which contain information about the customer.

Since this information is in the context of a charging record that

documents internet usage, this information is also information on the

customer as in internet user. See also subscriber database, col 9,lines 1-

3); and

wherein the charging table which includes information on a

charging method associated with Internet access is periodically

transmitted to the information terminal (see col col 7, lines 35-50, note that

the terminal can automatically retrieve the most recent service list);

wherein the information terminal is adapted to allow the customer to

select a desired charging method information from the information in the

transmitted charging table (see col 7, lines 15-50 and fig 4);

Ginzboorg does not explicitly teach:

an access setting database including information on plural

providers;

However, Ginzboorg teaches a system including multiple access service providers (see

col 6, lines 61-67 and fig 3c-3d). Ginzboorg also teaches the selection of a desired

operator (see col 7, lines 29-34) and control of the router R1 which governs the routing

of traffic to the various access service providers (see col 10, lines 31-42, in combination

with fig 3c-d). This combined teaching fairly suggests automatically selecting a provider

from said access setting data base responsive to accepting said user's selection in so

far as in order to configure router R1 to correctly route traffic to the chosen access

service provider, the access list of the router must be properly configured. Doing so

requires a resolution between the users selection and the configuration information

required by the router. Such a resolution fairly suggests an access setting database.

Ginzboorg also does not explicitly teach:

　　　　wherein the information terminal is configured to automatically change a provider.

Shaheen teaches:

　　　　wherein the information terminal is configured to automatically change a provider

(see col 8, lines 20-25, note that the subscribing unit may automatically select the

provider)

　　　　It would have been obvious to one having ordinary skill in the art at the time of

Applicant's invention to have provided the information terminal of Ginzboorg with the

automatic provider selection feature of Shaheen, in order to have allowed the

information terminal to automatically select the lowest priced provider as taught

explicitly by Shaheen (see col 8, lines 20-25).

<u>With respect to claims 11</u>

Ginzboorg in view of Shaheen teaches:

　　　　wherein the charging table has communication traffic state information

　　　　concerning a communication traffic state in the public network (see Ginzboorg col

　　　　10, lines 43-67, note that the charging server sends an OK message in order to

allow user to gain access to the internet, as such the sending of the OK message

suggests that the charging table has traffic state information concerning the

user's access to the public network).

(see rational supporting obviousness and motivation to combine of claim 26 above)

With respect to claims 12

Ginzboorg in view of Shaheen teaches:

wherein the charging table has electric commerce deal amount/frequency

information, which concerns a deal amount when the customer performs

electronic commerce employing the Internet, and a frequency of performing the

electronic commerce (see Ginzboorg col 5, line 47-col 6, line 10, col 14, line 36-

col 15, line 36 and Fig 8, note that the charging records contain fields for

SERVICE IDENTIFIER, STARTING TIME, ENDING TIME, TRAFFIC DATA.

These fields contain information about the frequency and content of all of a users

interaction with the Internet, including any electronic commerce transactions they

may perform).

(see rational supporting obviousness and motivation to combine of claim 26 above)

12.   Claims 5-6 and are rejected under 35 U.S.C. 103(a) as being unpatentable over

Ginzboorg in view of US Patent 6,128,490 to Shaheen (Shaheen) and in further view of

US Patent 5,913,040 to Rakavy.

With respect to claims 5

Ginzboorg in view of Rakavy teaches:

wherein the charging table has advertisement size information concerning a size

of the advertisement displayed on the information terminal (see Rakavy col 7,

lines 13-29, note that the Server Data base contains Advertising Information

records containing advertisement size).

It would have been obvious to one having ordinary skill in the art at the time of

Applicant's invention to have provided Ginzboorg in view of Rakavy with the advertising

distribution features of Rakavy in order to have displayed advertisements on a local

computer remote from a network in the context of a commercial, on-line service as

taught explicitly by Rakavy. It is also well known in the art to reduce Internet access

charges though the viewing of advertisements as taught explicitly by US Patent

6,009,410 to LeMole, see col 4 lines 6-10.

It would have been further obvious to one having ordinary skill in the art at the

time of Applicant's invention to have stored the advertisement size information in the

charging table of Ginzboorg in order to have consolidated the system data into a single

table that could be transmitted to the user so as to inform the user of current the

services and price information available via the system as taught explicitly by Ginzboorg

(see col 7, lines 35-50,)

<u>With respect to claims 6</u>

Ginzboorg in view of Rakavy teaches:

wherein the charging system has advertisement number information concerning

the number of advertisements displayed on the information terminal (see Rakavy,

see col 5, lines 31-41, note that the System Server tracks which Advertisements

have been downloaded to the user).

It would have been obvious to one having ordinary skill in the art a the time of

applicant's invention to have provided the charging system of Ginzboorg with the

tracking information of Rakavy in order to have allowed the system to generate charging

records related to the access sessions of the user as taught explicitly by Ginzboorg (see

sol 8, lines 22-30, See also rationale supporting obviousness and motivation to combine

of claim 2 above)

Response to Arguments

13.   Applicant's arguments filed 8/28/2008 have been fully considered but they are

not persuasive. With respect to Applicant's arguments directed to the allowability of the

claims based on the addition of a limitation directed to "at least one information item

selected from the group consisting of: a size of the advertisement displayed on the

information terminal, a number of advertisements displayed on the information terminal,

electronic commerce deal amount, electronic commerce deal frequency, and

communication traffic state information concerning a communication traffic state in the

public network, Examiner respectfully disagrees. While Examiner agrees that the cited

art of Ginzboorg and Rakavy do not expressly teach these limitations, Examiner notes

that this limitation is directed entirely to non-functional descriptive material having no

claimed functional relationship to Applicant's claimed invention. It has been considered,

but not given patentable weight for distinguishing Applicant's claimed invention over the

prior art since non-functional descriptive material fails to produce any functional change to the performance or structure of the claimed invention.

Examiner respectfully suggests an affirmative limitation directed to utilizing or basing the claimed fee calculation on said selected charging information. Such a limitation established a functional relationship between the claimed elements of the group and the claimed invention, allowing Examiner to give it patentable distinguishing weight.

With respect to Applicant's argument that claim 25 is allowable based on the automatic selection of a provider from and access setting data base, Examiner respectfully disagrees. As discussed above, Ginzboorg teaches a system including multiple access service providers (see col 6, lines 61-67 and fig 3c-3d). Ginzboorg also teaches the selection of a desired operator (see col 7, lines 29-34) and control of the router R1 which governs the routing of traffic to the various access service providers (see col 10, lines 31-42, in combination with fig 3c-d). This combined teaching fairly suggests automatically selecting a provider from said access setting data base responsive to accepting said user's selection in so far as in order to configure router R1 to correctly route traffic to the chosen access service provider, the access list of the router must be properly configured. Doing so requires a resolution between the users selection and the configuration information required by the router. Such a resolution fairly suggests an automatic selection from an access setting database.

With respect to Applicant's argument pertaining to the allowability of claim 26, Examiner respectfully disagrees. Examiner agrees that Ginzboorg in view of Rakavy

does not teach the automatic selection feature. However, US Patent 6,128,490 to

Shaheen teaches this feature at col 8, lines 20-25.

Allowable Subject Matter

14.   Claims 23, 15-16 and 21-22 recite allowable subject matter and would be

allowable upon confirmation of Examiner's assumption relating to the simultaneous

requirement of all of the recited embodiments.

15.   Further, upon an amendment that allows Examiner to give patentable weight to

the limitation related to the "at least one information item selected from the group . . ."

limitation discussed above, the claims including these limitation would differentiate

themselves from the cited Ginzboorg and Rakavy art.

Conclusion

16.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

17.   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

18.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to BRIAN FERTIG whose telephone number is5131. The

examiner can normally be reached on Monday-Friday, 9am-5pm EST. If attempts to

reach the examiner by telephone are unsuccessful, the examiner's supervisor, James

P. Trammell can be reached on 571-272-6712. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

19.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B.F./

/Mary Cheung/
Primary Examiner, Art Unit 3694